



CVCWA

Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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July 22, 2009

Mr. Kenneth Landau
Assistant Executive Officer
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Submitted via Electronic Mail: byee@waterboards.ca.gov

SUBJECT: Triennial Review for the Sacramento River and San Joaquin River Basins

Dear Mr. Landau:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments as part of the Triennial Review of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan). The Clean Water Act's triennial review process is critical to ensure maintenance and amendment of the Basin Plan as necessary to achieve the highest water quality that is reasonably attainable. Given the importance of the Basin Plan to the system of water quality regulation, wastewater agencies, industry, agriculture, the State and Regional Water Boards and other stakeholders must all work together to find creative solutions for updating these vital documents. CVCWA and its members continue to look for ways to establish mutually agreeable partnerships among interested parties to facilitate necessary updates to the Basin Plan.

In general, CVCWA would support an effort by the Regional Water Board to undertake a comprehensive review of the Basin Plan as a whole. The Basin Plan has not changed significantly since its original inception in 1975. As a result, the Basin Plan is out of date and in many instances no longer relevant. However, CVCWA also understands that the lack of financial resources prevents the Regional Water Board from reviewing the Basin Plan in its entirety. In light of the Regional Water Board's limited resources, CVCWA has identified several Tier One priority issues that CVCWA urges the Regional Water Board to address during this triennial review period. We have also identified several Tier Two issues that should be considered should resources allow.

TIER ONE ISSUES

Salt Management Policy: CVCWA commends the Regional Water Board for the progress made in the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) basin planning effort. CVCWA is a founding member of the non-profit Central Valley Salinity Coalition, which is working hand in hand with the Regional Water Board and other stakeholders to develop a comprehensive salt management strategy for the Central Valley. This collaborative effort to develop and implement a comprehensive salinity and nitrate management program must remain a top priority during this triennial review period. Although some of the solutions to the salinity issues in the Central Valley are outside of the Regional Water Board's jurisdiction, the success of the CV-SALTS program hinges on the Regional Water Board's support during this triennial review process to evaluate beneficial uses and water quality objectives in the Basin Plan.

Remove Incorporation by Reference of Secondary Maximum Contaminant Levels: The water quality objective for chemical constituents incorporates by reference primary and secondary maximum contaminant levels (MCLs), which are drinking water standards adopted by the Department of Health Services. Both apply to drinking water at the tap as it is delivered by drinking water agencies to consumers. Drinking water providers are required to meet primary MCLs; however, the secondary MCLs are recommendations based on consumer acceptance levels and are therefore unrelated to human health and welfare or the protection of aquatic life. For example, the secondary MCL for iron is set at a level to protect laundry from staining. As set forth in the Basin Plan, the secondary MCLs apply directly to the receiving water without considering that filtration (or satisfaction of specific turbidity requirements) is required prior to use by consumers for drinking water. In other words, rivers and streams that are sources of drinking water must meet the same levels for some constituents as tap water even though such levels are not related to human or aquatic health. In addition, the same drinking water will be filtered, which will remove the constituent of concern to an acceptable level, prior to being used by consumers. The application of such secondary MCLs to natural waterways is inappropriate when one considers the aesthetic basis for secondary MCLs and the treatment that will occur prior to use by consumers.

In the State Board's recent action on the City of Lodi permit, the adverse unintended consequences of the prospective incorporation by reference of secondary MCLs were evident. Despite the reasonable position taken by the Regional Water Board—that the salinity objectives may be interpreted flexibly for water quality purposes just as the MCLs are applied on a case-by-case basis—the State Water Board found that the low end of the numeric ranges must be applied to discharges. Therefore, the Basin Plan must be amended to delete the secondary MCLs. If there are specific secondary MCLs that the Regional Water Board deems necessary to protect uses of the Region's waterways, the Regional Water Board should adopt water quality objectives for those constituents pursuant to Porter-Cologne. At a minimum, the Regional Water Board should amend the Basin Plan to clarify how secondary MCLs should be applied to receiving waters (i.e. dissolved standards and subject to ranges).

Beneficial Use Designations; Effluent Dominated Water Bodies; Agricultural Dominated Water Bodies: CVCWA consists of 60 local public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. Many of our member agencies operate wastewater treatment plants that discharge to effluent and agricultural dominated water bodies with

inappropriately designated uses. In most instances, inappropriate uses are attributed to these water bodies through the Regional Water Board's broad application of the tributary statement rather than site-specific analyses of appropriate beneficial uses.

The de-designation of beneficial uses, like designation of beneficial uses, requires a lengthy and resource-intensive use attainability analysis (UAA). De-designations and designations cannot occur effectively in the absence of a clear and efficient process for conducting UAAs. CVCWA commends the Regional Water Board for de-designating the MUN, COLD, SPWN and MIGR beneficial uses on Old Alamo Creek during the last triennial review period. However, the difficulty and expense of de-designating this effluent dominated water body, despite the State Water Board's acknowledgment in a 2002 Order that beneficial uses were improperly designated, highlights the need for the Regional Water Board to re-examine its policy and practice for addressing de-designations, especially on effluent and agricultural dominated waterbodies.

Further, the Regional Water Board should prioritize reconsideration of the broad application of the tributary rule and the development of a policy for conducting UAAs. The Regional Water Board should work collaboratively with interested parties to develop a process for conducting UAAs. By having a set process in place, UAAs can be more efficient and cost effective for both designating and de-designating beneficial uses.

Remove Non-Detect Standard for Organochlorine Pesticides: The pesticide objective for the Sacramento and San Joaquin River Basins includes an objective for chlorinated hydrocarbon pesticides that states that they "shall not be present in the water column at concentrations detectable within the accuracy of analytical methods approved by the Environmental Protection Agency or the Executive Officer." (Basin Plan, III.6.00.) This provision was adopted into the Basin Plan in 1975 and was classified as an interim objective by the Regional Water Board due to a lack of information regarding tolerance levels. (A Review of the Administrative Record for the Central Valley's Water Quality Control Plan 1975-1994, September 2003 (Review), at p. 32.) By classifying the pesticide objective as an interim objective, the Regional Water Board intended to develop specific numeric objectives as part of the triennial review process. (Review at p. 32.) However, such follow-up actions have never occurred. As a result, the objective fluctuates with the accuracy of analytical methods rather than being based on the appropriate level to protect the uses of the waterways of the Sacramento and San Joaquin River Basins. Consequently, the non-detect standard should be removed from the Basin Plan.

Three Species Chronic Tests: As part of the triennial review, the Regional Water Board should identify the need for a policy that explains how the Regional Water Board intends to interpret three species chronic toxicity tests to determine if the narrative "no toxics in toxic amounts" water quality objective has been violated. Currently, different standards in different permits create confusion and uncertainty amongst the various wastewater agencies throughout the Central Valley.

TIER TWO ISSUES

Drinking Water Policy: CVCWA continues to support and commend the Regional Water Board for its stakeholder-based process to develop a Drinking Water Policy for the Central Valley. It is unfortunate that current funding issues will cause unknown delay in the development of a comprehensive, scientifically supportable policy for drinking water. In light of this delay, CVCWA

urges the Regional Water Board to re-prioritize the stakeholder-based development of an equitable Drinking Water Policy when funding permits. The Regional Water Board should be certain that any Drinking Water Policy developed now or in the future provides reasonable protection for drinking water while ensuring that out-of-Valley interests that benefit from the policy share in the costs of implementing and complying with the final policy.

Groundwater Survey and Control Policies for Discharges to Groundwater: CVCWA commends the Regional Water Board for its commitment to stakeholder outreach in devising a groundwater strategy pursuant to Resolution No. R5-2008-0181. The development of a long-term groundwater strategy should remain a high priority in the triennial review process.

CVCWA encourages the Regional Water Board to work with the State Water Board to develop a comprehensive groundwater strategy. Due to the many stakeholders who use and/or have the potential to impact groundwater, the Regional Water Board and State Water Board need a collaborative process for developing a scientifically sound policy for the Central Valley and the State. CVCWA prefers a sound groundwater policy to the Regional Water Board's current practice of establishing ad hoc policy on a permit-by-permit basis. In the absence of a sound policy, the Regional Water Board could potentially interpret and re-interpret narrative groundwater objectives much in the same way as done for surface water objectives. This process results in the use of de facto numeric water quality objectives that have not been evaluated under Water Code section 13241.

Pesticide Control Program: CVCWA commends the Regional Water Board for considering the adoption of numeric water quality objectives for pesticides instead of continuing to rely solely on the narrative objectives currently contained in the Basin Plan. Since wastewater agencies may be directly impacted by the adoption of water quality objectives for pesticides, wastewater agencies must be involved as stakeholders in any pesticide basin planning efforts. CVCWA urges the Regional Water Board to prioritize the adoption of numeric water quality objectives for pesticides—established in compliance with the intent and specific requirements of the California Water Code section 13241—in any pesticide basin planning efforts conducted during this triennial review period.

CVCWA appreciates the Regional Water Board's efforts to conduct a meaningful triennial review process. CVCWA encourages the Regional Water Board to carefully prioritize the issues and look for creative ways to work with concerned stakeholders to ensure that these issues actually are addressed before the next triennial review.

Thank you for your consideration. Please contact me at (530) 268-1338 if you have any questions.

Sincerely,



Debbie Webster
Executive Officer